Complaints Commissioner

Office of the Complaints Commissioner
3rd Floor
48–54 Moorgate
London EC2R 6EJ

Tel: 020 7562 5530
Fax: 020 7256 7559
E-mail: complaintscommissioner@fscc.gov.uk
www.fscc.gov.uk

24th November 2014

Dear Complainant,

Complaint against the Financial Conduct Authority
Our Reference FSA01569

Thank you for your letters. I am sorry for the time it has taken to investigate your substantial complaint, but it has been necessary to study extensive documents from the Financial Conduct Authority (FCA).

As the rules of the scheme under which I consider complaints can be found on our website at www.fscc.gov.uk, I shall not set them out fully below.

Your complaint

From your letter of 10th March 2014 I understand that you are complaining about a number of the regulator's actions, including:

- the events leading up to the unannounced Enforcement visit to your firm's offices;
- the manner in which the regulator undertook an unannounced Enforcement visit to your firm's offices on 29th April 2009, including the information the regulator provided to you when it discussed the possibility of you completing a Voluntary Variation of Permissions (VVoP);
- the conduct and comments made by Investigator W, one of the regulator's investigators, during this visit;
- the manner in which Investigator W conducted a subsequent interview;
- the overall conduct of the regulator as a whole whilst conducting its investigation, including the manner in which the settlement discussions took place;
- you also add that you believe that the regulator has made deliberate attempts to prevent you from gaining further employment in the financial services industry.

You are asking me to recommend that the FCA should apologise for its conduct and make a financial award to you to reflect the losses you say that you have incurred (which you claim amount to £1.2M) as a result of the regulator's actions.

My position

I have now had the opportunity to review all of the papers presented to me, which include a full copy of the regulator's investigation file. I would like to apologise for the time it has taken me to complete my investigation, but it has been necessary for us to consider a large number of documents, transcripts, and recordings, and to await your further observations on my preliminary decision.

Before I comment upon the substance of your complaint, I feel that it may be beneficial if I clarify that my investigation is only able to review the conduct of the regulator and, if appropriate, make recommendations to it in relation to that. I am unable to consider or comment upon the outcome of the Enforcement action (as you entered into a voluntary settlement with the regulator) or make any recommendations about the outcome of any future applications for authorisation the regulator receives for you from a sponsoring firm.

Before addressing the first part of your complaint I also feel that it may be useful if I summarise briefly the events which had taken place before the Enforcement visit.

22nd/23rd March 2007	Visit from Supervision highlights failings
25th March 2008	Visit from Supervision highlights further failings
18th November 2008	Further visit from Supervision highlights further failings and the need for a Section 166 Skilled Person's report was discussed. You were also informed that the FSA would consider whether further action was needed and that this may result in Enforcement action.
6th March 2009	You sign a Form A to become an adviser working for Network P.
20th March 2009	Network P submits the Form A to the FSA.
March 2009	The regulator is alerted to concerns about the firm by a third party.
25th March 2009	Form C and Application to cancel your firm's Part IV Permissions submitted by you to the FSA indicating that no further regulated activity would be conducted by your firm after 29th March 2009.
6th April 2009	Supervision raises its concerns about your firm with Enforcement.
7th April 2009	Enforcement commences its own investigation into your conduct.
8th April 2009	The regulator receives further information.
29th April 2009	Enforcement visits your offices and undertakes a compelled interview with you. You also sign the VVoP application.

Having reviewed the information presented to me it appears that, following a visit from the regulator's Supervision Division in March 2007, concerns were raised over a number of your firm's procedures. The regulator indicated that it conveyed these concerns to you orally at the end of the meeting and followed these up in a written report in August 2007. A further Supervision visit was conducted in March 2008 which highlighted further deficiencies which were again conveyed to you orally at the end of the meeting. In light of these concerns a further Supervisory visit was conducted in November 2008, which highlighted further deficiencies which were again conveyed to you orally at the end of the meeting.

From the above chronology it is clear – and would have been clear to you at the time of the meetings you had had with Supervision during 2007 and 2008 - that the regulator had significant concerns over your conduct and the manner in which your business operated. It is also evident that the regulator wanted you to arrange for a Skilled Person (under the provisions contained within Section 166 of FSMA) to undertake a review of four areas of your business (including a past business review), although I accept from your oral submissions to the Regulatory Decisions Committee (RDC) on 2nd February 2011 that you may not have fully appreciated the regulator's requirements in this regard. It is also evident that, during your last meeting with Supervision (on 18th November 2008), a number of concerns about your conduct were raised and that it made you aware that further action (a referral to the Enforcement Division) might result.

However, during the oral representations you made to the Regulatory Decisions Committee (RDC) on 2nd February 2011 it appears that the regulator accepted that it failed to follow up the oral debrief with written details of its concerns (or the actions it wished you take) in a timely manner[1]. During the RDC hearing the regulator also accepted that, although you had chased it for details of the action it wanted you to take, it failed to respond to your requests or to update you on its changing views on how the matter should progress.

These failures were serious given the significant concerns the regulator appeared to have had over the risks posed to consumers by your business. It is clear that the Regulatory Decisions Committee shared this view of the failings when it considered the matter on 2nd February 2011, and that its members extracted somewhat reluctant concessions on this matter from the regulator's staff.

The regulator has produced no adequate reason why it took its Supervision Division almost six months to complete its internal reviews and either issue you with a scoping document (setting out the actions it needed you to undertake) or notify you of the decision to refer your case to Enforcement. The regulator should, wherever possible, particularly in the case of a small firm, look to complete its agreed actions (such as a producing a scoping document) within a short time or, if this is not possible, keep the firm/individual concerned regularly updated.

This is not, however, to say that the regulator's actions were groundless: there were good grounds, as confirmed by the RDC, for the regulator to act for the protection of consumers. However, the existence of those grounds, coupled with the regulator's duty to behave fairly towards you and to minimise the burden of regulation, mean that this delay (and others in this matter) were indefensible, particularly given that you had chased the regulator for an update on its consideration of its concerns and that it failed to respond to you. I will return to Supervision's delays later in this Final Decision.

Following these visits, and as a result of information Supervision had obtained from other sources, the regulator appears to have concluded that your business represented a significant risk to consumers. Supervision held a number of internal discussions with Enforcement to establish how the matter should be progressed before formally referring your firm to Enforcement for consideration of whether formal action was required.

[1] Evidenced by the comments made on the recording of the RDC oral representations between approximately 1:17.00 and 1:28.00.

Following a review of all of the information available to it, Enforcement felt that formal action may be necessary and arranged an unannounced visit to your firm's Cambridgeshire office on the morning of 29th April 2009. Similar unannounced visits were conducted to your branch offices in Derbyshire and Leicestershire on the same day.

You are unhappy with the conduct of the investigators who conducted the visit to the Cambridgeshire office. When complaining to the regulator you have set out that although you were provided with formal notice of the investigation, the regulator failed to provide you with a copy of the 'Enforcement Guide' which sets out the regulator's procedures. The regulator has accepted that a copy could not be provided on the day of the visit but a copy was provided to you the following day. Although it is disappointing that the regulator did not provide you with a copy of the Enforcement Guide on the day of the initial visit there is nothing to indicate that you were substantively disadvantaged by this. However, in my view the regulator's omission in this respect was indicative of a more general failure to prepare properly for, or conduct appropriately, its investigations, and that this is an example of the instances of poor conduct which cumulatively had an unnecessarily distressing effect upon you. I shall return to this point later.

I know that you have raised concerns over the 'off tape' comments you say were made by one of the investigators about your conduct following the completion of the interviews. In your letter you say that:

> "*At the first meeting with enforcement (April 25 2009) and at the end, Investigator W suggested there was always Tescos to work for and that indeed bad advisers always come back under another guise out of the woodwork! This was intimidation, he also at this stage mentioning prison if criminal activity was proven, unwarranted and distressing comments and indeed misleading* [sic]".

Unfortunately, as the investigator concerned no longer works for the regulator and as the comments were neither made in the presence of the other investigator nor recorded, it has not been possible for me to investigate thoroughly this part of your complaint. I have however raised the issue of the use of such comments with the regulator, which has responded as follows:

> "*[it does] not consider comments of this nature to be an appropriate way for an FSA member of staff to conduct themselves and comments such as those attributed to Investigator W would concern [it]. As such [the regulator's] view is that statements of this nature are not acceptable practice*".

I appreciate that you consider that you were misled over the implications of signing the VVoP at the end of the meeting and feel that, as a result of this, you lost a significant amount of business and the ability to obtain legal representation under your professional indemnity insurance policy. I note that the regulator has explained that where Enforcement has significant concerns over the actions of a firm, at the close of the visit they will ask the firm to sign a VVoP meaning that the firm will voluntarily cease regulated activity. Whether a VVoP is signed is a matter for the firm and the firm cannot expect the investigators to know the specific details of its Professional Indemnity Insurance policy or what impact VVoP could have on the cover it provides.

Whilst I have noted that you indicated that, as a result of signing the VVoP, you have lost significant amount of income and that the consequences of signing the VVoP were not fully explained, I believe that the form and the regulator's covering letter make sufficiently clear the consequences of signing this form. In the covering letter it states:

> "*We note that [your firm] has applied to cancel its Part IV permissions, however, pending the outcome of that application and the outcome of the Enforcement investigation, we request that you vary the Part IV permissions of [your firm], with immediate effect, such that it will cease conducting any regulated activities*".

Likewise, the VVoP form makes the consequences of signing the form clear as it sets out that:

> "*[Your firm] may not carry on any of the regulated activities in its permission*".

Although you had submitted a Form A to become an adviser for Network P, you had asked for your firm's Part IV Permissions to be cancelled as soon as possible, rather than asking for the cancellation to be delayed until your Form A had been considered and you had been approved to work as an adviser for Network P.

I should add that all applications for a controlled function (including those relating to a change of firm) are assessed independently and the fact that, at the time of your application, you held an adviser function for your firm did not automatically mean that you would be granted 'adviser' status for Network P (it is not possible to simply transfer the adviser function from your firm to Network P without submitting a new Form A).

I recognise that you feel that you were pressured into signing the VVoP. However, it is important to remember that on 25th March 2009 you had signed an application to cancel your firm's Part IV permissions with effect from 31st March 2009. At the time you were visited by Enforcement, although your application was still being considered, both you and your firm should have ceased conducting any regulated activity four weeks earlier in accordance with your application. Given that, it is unclear how the signing of the VVoP led to the financial loss you say you have incurred. I would add that, whilst you say that the VVoP stopped you working, it should be remembered that as your CF30 (adviser) permission was linked to your firm, once your firm's Part IV Permissions had been cancelled your personal permissions would also have been cancelled.

I would further add that even if you had not closed down your firm following the signing of the VVoP, once the regulator had processed your cancellation application you would not have been able to re-enter the industry until such time as you had submitted, and the regulator had considered, a new application for authorisation.

I know that you are unhappy with the manner in which the interview on 19th May 2009 was conducted. Being the subject of an Enforcement investigation is, by its nature, unlikely to be a pleasant experience however carefully it is conducted. Where the regulator has concerns over an individual's behaviour, conduct and integrity, the regulator must question and challenge the subject of the investigation in order to fulfil its statutory obligations. This unfortunately means that the regulator will ask the individual difficult questions and is likely to challenge robustly the answers that are given. Although this may appear to be questioning the honesty and integrity of the subject of the person being investigated this is, in my opinion, something which cannot be entirely avoided.

I also appreciate that both you and your lawyer feel that you were not provided with sufficient information prior to the interview and have both raised concerns over the behaviour of one of the investigators as you feel it fell below the standard that was expected. It is disappointing that you both hold this view. In response to my request for the regulator's views on this it has stated that:

"*As regards the comments on the documents provided to [the complainant] during the 19th May 2009 interview to the Commissioner, there is no legal requirement for investigators to provide disclosure of documentation to the interviewee in advance of an interview. The only requirement is that the interviewee receives sufficient information about the interview to enable him to seek appropriate legal advice; the MoA is considered sufficient for this purpose. Investigators should take into account whether it would assist the interview process if the interviewee were to have sight of any relevant documents in advance of the interview. In most cases that is likely to be the case. In particular, it is likely to be appropriate to provide pre-disclosure where a large number of documents are to be referred to in the interview and/or the documents are relatively complex and/or relate to events that happened a long time ago. Where the interviewee has had an opportunity to examine the documents prior to the interview there may be a considerable saving of time and the interview is likely to flow more easily. However, if the investigators for any reason consider that advance disclosure of documents may produce a significant risk that the interviewee is able to generate a false account, investigators may refuse any request from the interviewee or his legal adviser to provide pre-interview disclosure.*

With regard to [the complainant's lawyer's] comments regarding the failure to provide transcripts of the 29 April 2009 interview to [the complainant]; where an interviewee has previously been interviewed under compulsory powers on the same matter, the interviewee should be provided with a record of that interview in advance of any further interviews. [The complainant] was not provided with this due to an oversight by the investigators. We apologise that [the complainant] did not receive this.

We understand that the comments made by [the complainant's lawyer's] (i.e. "the attitude of one of the investigators was to smirk") are in relation to Investigator W as they refer to a "he" when making comments about the FSA interview. We have spoken to Investigator C who was present at this interview, she has mentioned that Investigator W did not do anything during the interview that gave her cause for concern.

[The complainant's lawyer notes] that a request had to be made for the client to "take a break during these hours of questioning". [The complainant] was offered breaks at regular intervals throughout the interview, as can be seen from the number of parts that the recording and transcript cover, particularly [when it was] explained that the interviewers had about another 2 hours of questions to ask and [it was] suggested that the interview conclude on another day. [The complainant] made it clear that he wanted to complete the interview".

Whilst Investigator C has indicated that Investigator W "*did not do anything during the interview that gave her cause for concern*", it is disappointing that despite a seriously delayed investigation, Enforcement failed to supply papers when they should have done, refused to release the draft transcript (on the grounds that it had not been proof read), and subjected you to unnecessarily prolonged interview(s) which were, in my opinion, badly conducted. I would also add that despite Investigator C's comments, given that the conduct complained about is a facial expression, it is possible that Investigator C may not have seen Investigator W's expression.

The regulator has indicated to me that it expects its investigators to act professionally at all times and any conduct which could be deemed to be unprofessional is not acceptable. It is my view that, despite the recollections of Investigator C, given the supporting recollections of your lawyer and the prolonged and sometimes muddled nature of the interview, on balance it is likely that the conduct of Investigator W, throughout the entirety of the investigation, fell below the standard the regulator would expect of its staff, and this is something I will return to later in this Final Decision.

I know that this is a conclusion with which the regulator does not entirely agree as Investigator W "*left the FCA's employment some 5 years ago and we have therefore been unable to speak to him. We are, therefore, unable to corroborate whether or not these events took place and would suggest that it is difficult to draw such a conclusion on the balance of probabilities without evidence from the relevant individual*".

I can understand the FCA's reluctance to readily accept my conclusion. However, whilst I accept that Investigator W has not provided his comments, I am not persuaded by the FCA's argument that it is not possible to reach such a conclusion on the balance of probabilities given that I have received corroborating evidence from the complainant's lawyer who is no longer receiving instructions from the complainant.

I am aware that you are unhappy with the approach adopted by the regulator during the settlement discussions which took place before the Enforcement case was considered by the Regulatory Decision Committee (RDC) and the Tribunal. The conduct of settlement discussions has been the subject of other complaints considered by my predecessor, who faced the same dilemma as I do in that he was unable to resolve conflicting accounts of how such discussions had been conducted. I cannot determine whether or not your concerns are justified. However, it is disappointing that the regulator has again received a complaint which alleges that a person who was subject to the Enforcement process feels that they were being 'threatened' or 'pressurised' into accepting the settlement the regulator had offered rather than referring the matter to the RDC.

However, I appreciate that where the regulator and the subject of the investigation have differing views on the alleged level of misconduct, as was the case here, settlement discussions are always likely to be difficult (particularly where there were four separate settlement discussions which took place over a three-year period). My predecessor highlighted (in the Final Decision he issued on 3rd March 2011 in respect of complaint reference GE-L01166) that the regulator should always be on guard against allegations of this nature. I agree with this view but would add that, where there are strongly opposing views on what the appropriate settlement should be, this may not be possible. I would reiterate my predecessor's views that the regulator should take steps to ensure that it is not possible for such allegations of heavy handedness to be made with any degree of substance or likelihood of success. I am pleased that the regulator has taken significant steps to guard against such problems and it now creates substantial attendance notes of the discussions which take place during settlement discussions.

Finally I come to your concerns over the consideration of your recent applications to become re-authorised as an adviser. From your complaint letter I understand that you feel that the regulator made it difficult for you to be reapproved on three occasions. Of these, two applications (for Network P and Network WC) were received before the conclusion of its Enforcement action. Although I can appreciate why you were disappointed that the regulator would not approve your applications, it must be remembered that the aim of the approval process is to ensure that an individual is fit and proper to work in the industry.

Unfortunately, where there is continuing Enforcement action (or where the Supervision area has significant concerns) it is not possible for an individual's fitness and propriety to be considered fully until such time as the continuing action has been concluded or the concerns have been investigated. I hope that this explains why, given the timings of the applications submitted by both Network P and Network WC, the regulator was unable to consider and chose to defer these applications.

I also need to address the concerns you raised in relation to Enforcement's actions in relation to the application you submitted after you had entered into a settlement agreement with the FSA.

You have commented that during the settlement discussion which took place on 17th April 2012 you obtained a view that as you were "*not at fault personally as regards to being an adviser [you would be] able to reapply as soon as [you] wanted to*". This is a view which is generally consistent with the attendance notes of that telephone discussion that Enforcement have provided to me. The attendance notes indicate that whilst Enforcement may not have had any objection to you returning to a CF30 (adviser) role the manager with whom the discussions took place clearly indicated that ultimately your re-authorisation was not a decision for Enforcement to make. The notes presented to me state that "*Enforcement could not bind Authorisations and guarantee that he would be approved as a CF30 but if it was a SIF prohibition in place there would be no concerns from Enforcement as to his application*".

I know that you feel that you were 'blocked' by Enforcement but I have not seen any evidence to show that this is the case.

I also appreciate that you are disappointed that, once you had settled the Enforcement action with the regulator, the Permissions Team (within the Authorisations Division) chose to class your application as 'non-routine' and subject an application made by Network O to further consideration. The regulator, in its letter of 22nd January 2014, set out in general terms how applications for authorisation are considered, why your application was flagged as being non-routine, and why it needed to be considered by a case officer. It is the regulator's standard procedure where there is adverse intelligence (which would include a Final Notice in addition to any other information the regulator may hold) recorded against the applicant.

As a result of this the application being classed as 'non-routine', Permissions made a number of enquiries of other areas of the regulator to establish if they had any concerns (over and above of those which were set out in the Final Notice). As a result of these enquiries Permissions were alerted to a number of issues which caused it concern and required further investigation before it could consider your application further. It was these meetings which generated an interview with you on 29th November 2012.

During that meeting the regulator discussed with you a number of its concerns, particularly those it had surrounding a number of letters you had sent to a previous client. Specifically, the regulator felt that the nature of the letters and the language and terms used were potentially misleading.

The purpose of the complaints scheme is to consider whether the regulator's actions were necessary and proportionate. In this case the regulator clearly had concerns over your actions and felt that they required further investigation. As a result of the information you provided during your interview, the regulator concluded that it also needed to raise the issue of the letters with your sponsoring network (Network O). Having reviewed this matter carefully, I conclude that the regulator had good grounds for concerns about the letters, which were plainly (whatever their intention) potentially misleading, and I have no criticisms to make of the regulator in relation to that matter.

I appreciate that Network O's decision to withdraw your offer of employment was disappointing but that was a matter for Network O and not the regulator. I also appreciate that you feel that the regulator applied pressure to Network O, but I have seen nothing to show that this was the case. As the regulator has explained, whilst it approves or rejects an application, it does so based on the facts and information presented to it by the applicant (or sponsoring network). In this case, given the concerns the regulator had it was reasonable for it to ask Network O to confirm why it felt that you were a fit and proper person.

It is also clear that as a result of the correspondence Network O received from the regulator, asking it to confirm that you were a fit and proper person, it withdrew your offer of employment, and submitted a Form B because it no longer wished to continue with the application process.

You have complained that the regulator misled you over the consequences of signing the Form B in respect of the position you had been offered by Network O. As the regulator has explained the withdrawal process fully in its decision letter, I do not intend to repeat the process here.

I will, however, add that in the correspondence you exchanged with the regulator it was clearly stated that the application could only be withdrawn if both you and Network O signed the form. It was stated that it was open to you to "*continue with the application for approval without the support of [your] applicant firm*". I appreciate that you continue to say and hold the view that the process for doing this was not made to clear to you, but there is no evidence to show that this was the case.

By signing the Form B, as you did, you were agreeing to the withdrawal of the application. This was clearly stated on the application form. Likewise, the notes state that the application can only be withdrawn if *both* the applicant (Network O) and the candidate (you) sign the form. This indicates that if the candidate (you) chose not to sign the Form B the application could not be withdrawn and therefore, as the sponsoring firm would have withdrawn, the application (submitted on the Form A) would be classed as 'proceeding without consent'.

It is unfortunate that you did not appreciate the consequences of signing the Form B, but this is not the fault of the regulator. Had you been in any doubt of the consequences of signing the Form B (or wanted to clarify how you were to proceed with the application without consent) then it would have been reasonable to have expected you to have contacted the regulator to establish the procedure for doing this. I note that you have not provided any evidence to show that you did this. I conclude that you were not misled by the regulator.

Conclusion

Having considered your complaint, I believe that there were deficiencies in the manner the regulator communicated with you before the commencement of its Enforcement action (as the regulator has accepted that although Supervision had conveyed orally its concerns it should also have confirmed these to you in writing and updated you in a timely manner). I also believe that there is sufficient evidence to show that on balance it is likely that the conduct of the investigation fell below the standard the regulator expects of its staff. I have therefore upheld these aspects of your complaint and made recommendations to the regulator which are set out below.

However, whilst I appreciate that you are disappointed with the regulator's actions and conduct as a whole, there is nothing to indicate that (other than in the two instances I have described above) the regulator acted inappropriately. I am therefore unable to uphold the remaining aspects of your complaint. I appreciate that you will be disappointed with that, but I hope that you will understand why I have reached that conclusion. I would also add that, as a consequence of this, I am unable to make a recommendation that the regulator should offer you any financial redress for the losses you say that you have incurred as a result of its actions, although I have recommended an ex gratia payment in recognition of the matters which I have criticised, as explained below.

Recommendations

1. The regulator should apologise to the complainant for its Supervision Division's failings to provide the complainant/complainant's firm with written confirmation of its concerns within a formal report or 'action plan', together with its failure to send the complainant/complainant's firm a formal 'scoping document' and/or communications to clarify its changing position in a timely manner. Although the events giving rise to this complaint occurred five years ago, the regulator should review its procedures to ensure that effective controls are either already in place or are put in place to ensure that it communicates with the firms it regulates (especially small firms) in an appropriate and timely manner.

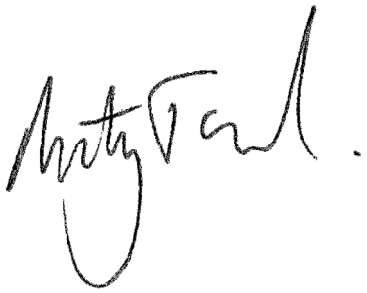
2. The regulator should apologise to the complainant for the conduct of the interviews carried out by its Enforcement Division. Although it is accepted that the conduct complained about occurred over five years ago the Commissioner recommends that the regulator should ensure that its staff (especially those from the Enforcement and Supervision Divisions) are reminded that unprofessional conduct (i.e. behaviours, comments or gestures) towards those it regulates (especially those under investigation) are not acceptable.

3. The regulator should make a payment of £1,000 in recognition of the unnecessary distress and anxiety which its handling of this matter has caused. Although the regulator had clear and justifiable grounds for increasing its monitoring of the complainant and ultimately taking action against him, it is clear from my investigation that elements of the regulator's handling of this matter fell below the standard expected of the regulator, with adverse consequences for both the complainant and the public interest. Specifically the recommended payment is in recognition of the regulator's Supervision Division's failings in providing the complainant with clear instructions of what it expected of him before the matter was referred to its Enforcement Division, and in respect of the conduct of the interviews with the complainant.

   In making this recommendation for payment, I am aware that it might be argued that the complainant brought the matter upon himself by failing to address the inadequacies in the management of his firm. I have taken this into account in setting the level of the recommended payment, but as a matter of principle I consider that the fact that a complainant's failings may have triggered regulatory action must not absolve the regulator from its duty to proceed with its actions promptly and competently, or to provide some recompense when it fails to do so.

Finally, you have asked me to review the quantum of the ex gratia payment I am recommending the FCA should make to you as you believe that my recommendation of £1,000 did not to reflect the "*time taken away from me for the mishandling, behaviour, and incompetence on the handling of my case by the FSA/FCA*". Whilst I have considered this request I remain of the view that the amount of £1,000 I have recommended is appropriate. Whilst I have found that the regulator made errors and that the conduct of its staff fell below the expected standard, the long-standing policy of the complaints scheme, as set out on my website, makes it clear that any award I make under the scheme in relation to findings such as these will be relatively modest, particularly where the regulator was shown to have had genuine cause for concern over the complainant's conduct and the errors that it has made have not, in general terms, affected adversely the overall financial position of the complainant.

Yours sincerely



Antony Townsend
Complaints Commissioner